

PETER C. WOLFF, JR. # 2332
Federal Public Defender
District of Hawaii
ALEXANDER SILVERT
First Assistant Federal Defender
300 Ala Moana Boulevard, Suite 7104
Honolulu, Hawaii 96850-5269
Telephone: (808) 541-2521
Facsimile: (808) 541-3545

Counsel for Defendant-Petitioner-Appellant
JAMES McCANDLESS

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	)	C.A. No. 16-15411
)	
Plaintiff-Respondent-Appellee,	)	D. Ct. Nos. 1:15-cv-00461-DKW-BMK
	)	and 1:10-cr-00793-DKW-1
vs.	)	(D. Hawaii)
)	
JAMES McCANDLESS,	)	MOTION TO CONSOLIDATE;
	)	EXHIBIT A; CERTIFICATE OF
Defendant-Petitioner-Appellant.	)	SERVICE
_____)	

PETER C. WOLFF, JR. # 2332
Federal Public Defender
District of Hawaii
ALEXANDER SILVERT
First Assistant Federal Defender
300 Ala Moana Boulevard, Suite 7104
Honolulu, Hawaii 96850-5269
Telephone: (808) 541-2521
Facsimile: (808) 541-3545

Counsel for Defendant-Petitioner-Appellant
JAMES McCANDLESS

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	)	C.A. No. 16-15411
)	
Plaintiff-Respondent-Appellee	)	D. Ct. Nos. 1:15-cv-00461-DKW-BMK
	)	and 1:10-cr-00793-DKW-1
vs.	)	(D. Hawaii)
)	
JAMES McCANDLESS,	)	MOTION TO CONSOLIDATE
)	
Defendant-Petitioner-Appellant.)	
_____)	

MOTION TO CONSOLIDATE

Defendant-petitioner-appellant JAMES McCANDLESS moves this Court to consolidate this matter with *United States v. Carreira*, No. 16-15410 (docketed March 11, 2016). Both cases arise from a single order that the District Court for the District of Hawaii, per District Court Judge Derrick K. Watson, entered against both Carreira and McCandless. A copy of that order is appended to this motion as Exhibit A. In that order, District Court Judge Watson rules that the district court

lacks inherent authority to release a federal prisoner on bail while his 28 U.S.C. §2255 motion is pending at the district court level. The issue on appeal—that the district court erred in so ruling and should be directed to consider the merits of whether the petitioner should be released on bail—is the same in each case.

Counsel has contacted the government’s counsel and informed them of this motion. As of the filing of this motion, the government’s counsel has not responded as to their position.

DATED: Honolulu, Hawaii, March 15, 2016.

/s/ Peter C. Wolff, Jr.
PETER C. WOLFF, JR.
Counsel for Defendant-Petitioner-Appellant
JAMES McCANDLESS

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2016, I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Peter C. Wolff, Jr.
PETER C. WOLFF, JR.
Counsel for Defendant-Petitioner-Appellant
JAMES McCANDLESS